

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10692 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JAYANTIBHAI MAGANBHAI PATEL DECD.THRO'HEIRS MAGANBHAI & 2

Versus

BAYAD TALUKA SAHKARI KHARID VECHAN SANGH LTD

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Appearance:

MR SURESH M SHAH for Petitioners

MR BN PATEL for Respondent No. 1

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 03/07/97

ORAL JUDGEMENT

Rule. Mr.D.N.Patel, learned Advocate waives service of Rule on behalf of the respondents. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

The petitioners by way of this petition have challenged the judgment and order passed by the Gujarat State Co-operative Tribunal in Appeal being Appeal No.230

of 1994 whereby the Tribunal modified the order passed by the learned Nominee asunder:

"The defendants are liable for the suit claim of Rs.1,61,978/- together with simple interest at 12% from 15-4-92 and the expense of the suit, which is Rs.3190/-. If the defendants fail to pay this amount, the plaintiff is entitled to recover the same from the property of the deceased Jayantibhai Maganbhai Patel inherited by the defendants/appellants, and the injunction granted under Ex.6 is made absolute till the suit claim is recovered.'

Mr. Shah, learned Advocate appearing for the petitioners has pointed out that the Tribunal has not taken into account the resolution dated 29-7-92 passed by the respondent society whereby the liability of the petitioner was fixed at Rs.1,24,304/-. Mr. Patel appearing for the respondent does not dispute this position. In view of this resolution, there is an obvious mistake on the part of the Tribunal fashioning the liability at Rs.1,61,978/- on the petitioners. In view of this, the order passed in the appeal by the Tribunal is required to be interfered with as far as the amount of liability is concerned.

In the result, the petition is partly allowed. The order passed in Appeal by the Tribunal is modified as under:

The petitioner-defendants are liable for the suit claim of Rs.1,24,304/- together with simple interest at 12% from 15-4-92 and the expenses of the suit which is Rs.3,190/-.

The rest of the order passed in appeal shall remain intact. Rule is made absolute to the aforesaid extent with no order as to costs.

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